

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

NYKERRIA FOSTER
O/B/O HER UNBORN CHILD

NUMBER: _____

VERSUS

JUDGE: _____

WAL-MART, INC.

MAGISTRATE JUDGE: _____

NOTICE OF REMOVAL AND JURY DEMAND

NOW INTO COURT, through undersigned counsel, come WAL-MART LOUISIANA, LLC, a Delaware limited liability company, and WAL-MART, INC. (formerly Wal-Mart Stores, Inc.), a Delaware corporation with its principal place of business in Arkansas (collectively “defendants” or “Wal-Mart”), defendants in the above-entitled cause, and appearing solely for the purpose of presenting this Notice of Removal of the above-entitled cause to this Honorable Court under the provisions of 28 U.S.C. § 1441, *et seq.*, and reserving all rights, respectfully show as follows:

1.

This suit was filed by plaintiff in the Fifth Judicial District Court, Richland Parish, Louisiana, on the 11th day of January, 2023. Wal-Mart was served with plaintiff’s Petition and citation on January 25, 2023. Wal-Mart files this Notice of Removal within 30 days from and after the date of service of process upon defendant.

2.

Wal-Mart Louisiana, LLC is the entity that is the owner and operator of the store at which plaintiff claims the injury occurred, and files this Notice of Removal and Jury Demand, joined by Wal-Mart, Inc.

3.

In her petition, plaintiff alleges that she is domiciled in Rayville, Richland Parish, Louisiana. Defendant alleges upon information and belief that plaintiff is a citizen of the State of Louisiana.

4.

This action is of a civil nature at law. At the time plaintiff's Petition was filed, defendant Wal-Mart Louisiana, LLC was and is now a Delaware limited liability company. The sole member of Wal-Mart Louisiana, LLC is Wal-Mart Stores East, LP, a Delaware limited partnership. The general partner of Wal-Mart Stores East, LP is WSE Management, LLC, a Delaware limited liability company. The limited partner of Wal-Mart Stores East, LP is WSE Investment, LLC, a Delaware limited liability company. The sole member of both WSE Management, LLC and WSE Investment, LLC is Wal-Mart, Inc., a Delaware corporation with its principal place of business located in the State of Arkansas.

5.

Defendant Wal-Mart, Inc. is a Delaware corporation with its principal of business in the State of Arkansas.

6.

All defendants are diverse from plaintiff. All defendants join in this Notice of Removal and Jury Demand.

7.

In her petition, plaintiff alleges that as a result of the fault of Wal-Mart, she suffered the miscarriage of her unborn child. Plaintiff asserts damages both for herself and on behalf of her unborn child.

8.

In her petition, plaintiff alleges she was looking forward to the birth of her child and to the love, affection and companionship that the child would provide. Further, that as a result of the death of her unborn child, she suffered extreme grief, mental anguish and distress and an irreversible loss of being deprived of its companionship, security, love and affection.

9.

It is apparent from the face of the petition that the amount in controversy exceeds \$75,000 since plaintiff claims damages for the wrongful death of her unborn child. *See Duncan v. Wal-Mart Louisiana, L.L.C.*, 863 F.3d 406 (5th Cir. 7/14/2017).

10.

Accordingly, plaintiff's damage claims exceed the jurisdictional threshold of this Court.

11.

This Court has jurisdiction of the cause of action under 28 U.S.C. § 1332.

12.

The proper court for removal is the United States District Court for the Western District of Louisiana, Monroe Division.

13.

Defendant files herewith copies of the entire record in the district court, which consists of the following:

- (1) Petition;
- (2) Citation issued to Wal-Mart; and
- (3) Request for Written Notice.

14.

Defendant requests a jury trial in this case.

15.

Defendant further shows unto the Court that immediately upon the filing of this Notice of Removal, a copy of same shall be served upon plaintiff and a copy filed with the Clerk of the Fifth Judicial District Court, Richland Parish, Louisiana, all in accordance with 28 U.S.C. § 1446(d).

Shreveport, Louisiana, this 6th day of February, 2023.

BLANCHARD, WALKER, O'QUIN & ROBERTS
(A Professional Law Corporation)

By: /s/ Scott R. Wolf
Scott R. Wolf, Bar # 28277
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ATTORNEYS FOR DEFENDANTS,
WAL-MART LOUISIANA, LLC AND
WAL-MART, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing Notice of Removal has this date been served upon the following by placing same in the United States Mail, postage paid:

Myrt T. Hales, Jr.
Joshua L. Strickland
Hales & Strickland
802 Julia Street
P. O. Drawer 149
Rayville, Louisiana 71269

Stacie S. Williamson
Richland Parish Clerk of Court
708 Julia Street, Suite 103
P. O. Box 119
Rayville, Louisiana 71269

Shreveport, Louisiana, this 6th day of February, 2023.

/s/ Scott R. Wolf
Scott R. Wolf